

**Town of Ashburnham  
Policy Statement**

POLICY NAME:	<b>FMLA</b>	POLICY NUMBER:	<b>006</b>
APPROVAL AUTHORITY:	<b>BOS/TA</b>	APPLIES TO:	<b>Town Employees</b>
ADOPTED:	<b>5/1/2017</b>	REVISED:	<b>08/07/2017</b>
		REVIEWED:	<b>--</b>

**1.0 Policy Statement**

The Family and Medical Leave Act ("FMLA") requires employers of over fifty (50) employees to provide up to twelve (12) weeks of unpaid, job-protected leave during a twelve (12) month period to employees who worked a minimum of 1,250 hours in the prior twelve (12) months.

**2.0 Reason for the Policy**

This policy is required in order to be in compliance with the Family and Medical Leave Act.

**3.0 Scope of Policy**

**4.0 Who does this policy apply to?**

This policy applies to all Town Employees who meet the minimum hours worked in any 12 month period.

**5.0 Who is responsible for enforcing this policy?**

The Town Administrator, assisted by department heads, is responsible for enforcing this policy.

**6.0 Definitions**

**6.1 FMLA:** shall mean the Family and Medical Leave Act.

**6.2 Injured on Duty:** Shall refer to any employee who is out of work as a result of a work-related injury and has qualified for Worker's Compensation or Injured on Duty leave.

**6.3 Town Employee:** Shall mean any paid employee of the Town of Ashburnham.

**7.0 Policy**

**7.1 Employee Eligibility**

Any employee who has completed 1,250 hours of paid work in the preceding 12 month period may be eligible for up to twelve (12) weeks of unpaid, job-protected leave during a twelve (12) month period.

**7.2 Eligible Reasons for FMLA**

FMLA is granted to eligible employees for any of the following reasons:

- i. The birth, adoption, or foster placement of a child, and to subsequently care for such newborn, adopted, or foster child<sup>1</sup>;
- ii. To care for an employee's spouse, child, or parent with a serious health condition; and

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<sup>1</sup> Leave to care for a newborn, adopted, or foster child must be taken within the twelve (12) month period that begins with the birth or placement of the child.

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- iii. For a serious health condition that makes the employee unable to perform the employee's job.

**7.3 12 Months Unpaid Leave & Exception**

The twelve (12) month leave entitlement is measured forward from the employee's first use of FMLA leave. FMLA leave shall be unpaid unless an employee applies paid time-off (PTO) or sick leave as described in personnel by-laws Section 9 and relative sections in collective bargaining agreements/personnel contracts that may be available. The substitution of paid leave time for unpaid leave time does not extend the twelve (12) week leave period.

**7.4 Injured on Duty (IOD) Leave**

If an employee is injured on-duty and absent from work due to the injury and the injury meets the definition of a "serious health condition" as that term is defined by the FMLA and the Regulations, the Town will classify the absence as FMLA leave and charge the absence against the employee's twelve week FMLA leave entitlement.

**7.5 Benefits while on FMLA**

Benefits (*except health and life insurance*), and accruals of PTO are suspended for the unpaid portion of an employee's leave. During an approved FMLA leave, the Town will maintain the employee's health insurance benefits under the same terms and conditions applicable to employees not on leave. If PTO is substituted for unpaid FMLA leave, the Town will deduct the employee's portion of the health plan premium as a regular payroll deduction. If the FMLA leave is unpaid, the employee must pay his/her portion of the premium by the 15<sup>th</sup> of each month or by making arrangements with the Town Treasurer prior to that date. If these conditions are not met, the Town reserves the right to cancel the employee's coverage. The use of FMLA will not result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

**7.6 Notifications of FMLA Request**

The employee **MUST** notify the Department Head in writing 30 days in advance of requested FMLA leave, or as soon as possible under the circumstances if the leave cannot be anticipated. The notice should include the dates and expected duration of the leave. Upon notification of an employee's intent or need to take time-off pursuant to the FMLA, the Department Head should refer the employee to the Town Administrator's office. The Town Administrator's office shall provide all required information and forms to properly certify a leave as FMLA leave.

**7.7 Grant of FMLA Designated Leave**

The Town Administrator's office will notify the employee in writing, within two business days of the request for leave, whether the leave will be designated as FMLA leave. The Town Administrator's office shall forward a copy of its response to the Department Head. ***A physician's certification will be necessary if FMLA leave is requested for medical reasons.*** The employee may be required to provide periodic updates to the Town during the period of FMLA leave if the leave is requested for medical reasons. Employees are required to notify their Department Head of their ***anticipated return to work within five days*** of the ***effective return date*** if possible. A physician's certificate may also need to be submitted to

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the Department Head indicating that the employee is cleared to return to work with or without restrictions.

### 7.8 Eligible Employees and Allowed FMLA Leave

Eligible employees may take up to 12 weeks of FMLA within a 12 month period on a full-time, intermittent or reduced work schedule basis as allowed by the FMLA. In consultation with the Town Administrator, the Department Head may evaluate, if warranted or appropriate given the circumstances of the request, whether an intermittent or reduced work schedule can be arranged. The employee may be required to obtain physician certification of the medical necessity for intermittent FMLA leave or a reduced work schedule.

### 7.9 FMLA Tracking

Each department will track all FMLA days on the payroll and FMLA leave shall be counted against FMLA entitlement. The Town Administrator's office will notify the employee of eligibility for short-term disability.

### 7.10 End of FMLA Period

At the conclusion of an employee's FMLA leave, the employee shall be restored to the same position or to an equivalent position, if the employee is able to perform the essential functions of the job, with equivalent benefits, pay and other terms and conditions of employment. If the employee chooses not to return to work (for any reason other than continued health-related problems or due to circumstances beyond control), the employee will reimburse the Town's contribution to the health insurance premium paid during his or her FMLA leave.

### 7.11 Total Cumulative FMLA Leave and Benefits

The above provision regarding benefits, length of service, and reinstatement of employment are limited to a period not to exceed twelve (12) weeks. ***After twelve (12) weeks, approval of leave, provision of continued benefits, and reemployment are at the discretion of the Town considering staffing needs and circumstances of the individual case.***

### 7.12 New Job while on leave

***The taking of another job while on FMLA leave, or any other authorized leave, may lead to disciplinary action, up to and including termination.***

## 8.0 Attachments

NONE